

## **Category 3 – Legal Issues**

In conjunction with responding to calls for public safety services, the dispatcher must identify legal requirements based on the Constitution of the United States, the Code of Virginia, and/or local ordinances where applicable. Expected performance outcomes in this category include the following:

- 3.1. Apply federal/state laws, local ordinances, and rules and regulations established for dispatch operations.
- 3.2. Perform the duties of a dispatcher with awareness of general liability applicable to this job.
- 3.3. Testify in court.

## **Performance Outcome 3.1**

Apply federal/state laws, local ordinances, and rules and regulations established for dispatch operations.

## **Training Objectives 3.1**

Given written exercises, identify relevant federal and state laws, rules and and regulations that govern dispatch operations.

**Criteria for Testing:** The trainee shall be tested on the following:

- 3.1.1 Communications Act of 1934
- 3.1.2 Federal Communications Commission Rules and Regulations
- 3.1.3. The Federal Privacy Act
- 3.1.4. The Federal Freedom of Information Act
- 3.1.5. Virginia Privacy Act (2.2-3800 Government Data collection and Dissemination Practices Act)
- 3.1.6. Virginia Freedom of Information Act (2.2-3700 et al.)
- 3.1.7. Differences between criminal, civil and traffic violations as provided by the Code of Virginia.
- 3.1.8 Identify, explain, and determine the existence and validity of legal documents.
  - 3.1.8.1. Arrest warrants
  - 3.1.8.2. Capias
  - 3.1.8.3. Psychiatric/Medical Detention/Commitment Orders
  - 3.1.8.4. Subpoena
  - 3.1.8.5. Summons
  - 3.1.8.6. Protective orders
  - 3.1.8.7. Determining existence and validity of warrants.
- 3.1.9 The Missing Children's Clearinghouse Act (§52-31.34)

**Lesson Plan Guide:** The lesson plan shall include the following at a minimum:

1. Communications Act of 1934
2. Federal Communications Commission Rules and Regulations
3. The Federal Privacy Act
4. The Federal Freedom of Information Act
5. Virginia Privacy Act (2.2-3800 Government Data collection and Dissemination Practices Act)
6. Virginia Freedom of Information Act (2.2-3700 et al.)
7. Differences between criminal, civil and traffic violations as provided by the Code of Virginia.
8. Identify, explain, and determine the existence and validity of legal documents.
  - a. Arrest warrants
  - b. Capias
  - c. Psychiatric/Medical Detention/Commitment Orders
  - d. Subpoena
  - e. Summons
  - f. Protective orders
  - g. Determining existence and validity of warrants.
    - 1). Identify location of arrest warrants in files.
    - 2). Verify arrest warrants regarding the accuracy of the information on the warrant. False arrest humiliates the person being arrested and embarrasses all legal authorities involved. Due diligence will avoid this if at all possible.
      - a). Name of the accused (and aliases)
      - b). Date of birth (if known)
      - c). Social Security Number (if known)
      - d). Or warrant provides a description by which the person can be identified with reasonable certainty.
      - e). Describes the offense (include state or county code)
      - f). Commands the accused to be arrested (given), and brought before the appropriate Court.
        - 1). Check the warrant to see if it is to be served as an arrest or as a summons.
      - g). Is signed by the issuing officer -- judge, clerk, or magistrate, not the police officer).

- h). Is dated
  - i). Any other information on warrant
  - j). Include if the warrant is releasable on a summons.
- 3). Officers and communications personnel should use all available information to ensure proper identification for determination of arrest. Review a bad warrant and a valid warrant to illustrate differences.

**3. The Missing Children's Clearinghouse Act (§52-31.34)**

## **Performance Outcome 3.2**

Perform the duties of a dispatcher with awareness of liability applicable to this job.

## **Training Objective 3.2**

Given a written exercise, identify the areas of potential liability that apply to dispatchers in the performance of their job.

**Criteria for Testing:** The trainee shall be tested on the following:

- 3.2.1 Concept of general and special duty to the public in the communication center.
- 3.2.2 Liability of dispatchers related to performance of duties as covered by the following acts:
  - 3.2.2.1. The Virginia Tort Claims Act (§8.01-195.1)
  - 3.2.2.2. The Virginia Good Samaritan Act (§8.01-225)

**Lesson Plan Guide:** The lesson plan shall include the following at a minimum:

1. General duty to the public in the communication center.
  - a. What potential liability to the public arises from a general duty?
  - b. How does a dispatcher avoid creating liability?
2. Special duty to the public in the communications center.
  - a. What potential liability to the public arises from a special duty?
3. Liability of dispatchers related to performance of duties as covered by the following acts:
  - a. The Virginia Tort Claims Act (§8.01-195.1)
    - 1). Failure to respond
      - a). Requires thought and choice to not respond
      - b). Injury occurs
      - c). Allows punitive as well as compensatory damages
    - 2). Negligent response (four elements needed)
      - a). Legal duty to respond
      - b). Breach of the duty
      - c). Was the proximate cause (by fault of the negligent person)
      - d). Of injury (civil case with damages)
  - b. The Virginia Good Samaritan Act (§8.01-225)
4. Four areas of supervisory liability.
5. Four types of damages that may arise from civil litigation.
6. Vicarious liability.

### **Performance Outcome 3.3**

Testify in court.

### **Training Objective 3.3**

Given a written scenario or practical exercise, identify documents and materials to prepare for court testimony.

**Criteria for Testing:** The trainee shall be tested on the following:

- 3.3.1. Basic preparation for court testimony and/or deposition.
- 3.3.2. Characteristics of professionally presented testimony in court.

**Lesson Plan Guide:** The lesson plan shall cover the following at a minimum:

1. Basic preparation for general court testimony and/or deposition.

a. Review your knowledge of law relating to the following:

1. Testimony

Giving testimony involves taking an oath that the person is telling the truth, the whole truth, and nothing but the truth. To lie by commission (tell an untruth) or omission (leave out information relevant to the truthful presentation of information about the case) may lead to charges of perjury. The simple definition of perjury is to lie under oath. Suborning perjury is asking another person to lie under oath.

Relevant Code: § 18.2-434

**A dispatcher tells the truth to the fullest extent of his or her knowledge of the facts regarding the matter on which he or she is testifying.**

2. Knowledge of facts of the case (confer with Commonwealth's Attorney as needed). Review the facts of the case and go over any details that should be reviewed with the Commonwealth's Attorney. Review procedures used throughout case for potential legal loopholes (technicalities) and be ready to respond to these. Review general rules of testimony.
3. Review written notes and reports. Review tape of the incident if available. Be aware of what you may and may not read as part of court testimony. Refresh your memory by reviewing your notes and reports.
  - a. Notes should only referred to and not be read into court testimony.
  - b. Time between an incident and court reduces the accuracy of memory.
  - c. Accurate presentation of evidence in court is critical.

b. Characteristics of professionally presented testimony in court.

1. Dress professionally.
2. Prepare mentally (present facts, not make judgments)

You are testifying to the facts that led to the case brought into court. Stay focused on this during your testimony regardless of your personal feelings about the case. Answer only those questions asked.



3. Prepare to use calm demeanor.

A calm and professional demeanor is always best for court testimony. Anything else distracts from a fair hearing for all parties involved.

4. Prepare to use proper English skills.

The courtroom is a place for your best communication skills. Well spoken English in giving testimony is your goal. Preparing what you intend to say in advance will help you give your testimony clearly and effectively.

5. Be aware of body language

You can send mixed signals in court testimony as well as anywhere else. When jury members are interviewed after a trial, they often say they didn't believe someone testifying for reasons that often have to do with the fact that the person's body language on the stand is not consistent with the testimony. When you tell the truth, your body language reflects this.

6. Use clear and calm voice tone in speech.

You are there to carry out to carry out this aspect of your responsibilities as a dispatcher. It is simply part of your job. When you testify in court, keep this in mind and speak clearly and calmly.

7. Be truthful, accurate, and objective in testimony

There is never an excuse for being other than truthful, accurate, and objective in your testimony.